

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Kevin Mienders, Petitioner-Appellant, v. Black Hawk County Board of Review, Respondent-Appellee.	ORDER Docket No. 12-07-0509 Parcel No. 8812-07-176-005
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On May 3, 2013, the above captioned appeal came on for consideration before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Kevin Mienders was self-represented and requested a written consideration. Attorney David J. Mason is counsel for the Black Hawk County Board of Review. The Appeal Board, having reviewed the record and being fully advised, finds:

Findings of Fact

Kevin Mienders, owner of a property located at 427 Belle Street, Waterloo, Iowa, appeals the Black Hawk County Board of Review decision regarding his 2012 property assessment. The original 2012 assessment was \$195,130, representing \$26,260 in land value and \$168,870 in dwelling value. This was a change from the 2011 assessment and therefore Mienders had all grounds for appeal available under Iowa Code section 441.37(1)(a).

Mienders protested to the Board of Review claiming the subject property was assessed for more than the value authorized by law under section 441.37(1)(a)(2) and asserting the correct fair market value is \$155,000. The Board of Review denied the protest.

Mienders then appealed to this Board reasserting his claim.

According to the property record card, the property is a one-story dwelling built in 1961 with 2022 square feet of above-grade living area; a full, unfinished basement; and a 600 square-foot attached garage. There is also a 320 square-foot deck, and three porches with a total of 217 square-feet. The property record card also notes the owners added an enclosed basement entrance in November 2011. The site is 0.481 acres.

Mienders provided a settlement statement from 2009 when he purchased the subject property for \$140,000. Because the sale is from 2009, we do not find it relevant for a 2012 market value and give it no consideration.

Mienders submitted an appraisal completed by Andrew Steffen of Appraisal Pros, LLC, Cedar Falls, Iowa. Steffen's appraisal was completed for refinancing purposes with a valuation date of March 7, 2012, and a final opinion of value of \$155,000. He developed the sales comparison and cost approach; although he gave limited consideration to the cost analysis. He included five comparable properties. He explained there was "limited availability of sales." Comparables 1 and 2 are both two-story homes compared to the subject's one-story design. Steffen gave these comparables the most consideration in his final opinion of value because they offered the "greatest similarity to the subject."

Other than noting a limited availability of sales, Steffens does not address why it was necessary to use different style homes for comparison, or if there is any market preference for style.

Comparables 3 and 4 are both one-story properties like the subject. Comparable 5 is a split-foyer. All five sales occurred in 2011 and after adjustments indicate a range of value from \$153,000 to \$161,400.

Black Hawk County Deputy Assessor Tami McFarland commented on the appraisal in an April 2013 letter to this Board. She includes a "comparable property breakdown" of the properties used in Steffen's appraisal (Attachment #1). In this Attachment, she identifies that the comparable properties are located between four to seven miles from the subject property, contrary to what Steffen's appraisal reports. She is critical of the need to use these distant sales, as well as properties that did not offer

similar design. However, we note the properties considered by Steffen do generally offer similar size to the subject property. While we find Steffen's appraisal lacks detailed explanation regarding the use of different style homes, and we note a discrepancy in the distance of the properties he reports compared to that reported by the assessor's office, we find the report was developed with appropriate methodology, applied reasonable adjustments, and we consider the results reliable.

Lastly, Mienders submitted a comparative market analysis (CMA) prepared by Karen Kayser with Re/Max Realty. She analyzed one listing, three sales, and two pending properties. It is unknown what the location of these properties is compared to the subject. All are one-story properties with total living areas between 1120 and 2125 square feet, compared to the subject's living area of 2022 square-feet.¹ Three of the properties are 1260 square feet or less and we do not find them to be sufficiently similar in size for comparison. The remaining properties (two sales and a pending sale) range in size from 1480 square-feet to 2125 square-feet. The sales located at 5805 Daisy Drive and 3117 Tulip Lane have sale prices of \$151,000 and \$156,000, respectively. The pending sale, 720 Belle Street, was listed for \$159,000. Ultimately, Kayser advises she would recommend a list price of \$157,300 for the subject property based on the average sale price and anticipates that as the sales price as well. She did not adjust these properties for differences compared to the subject. For this reason, we give her analysis no consideration.

McFarland was also critical of Kayser's analysis. McFarland provided the date of sale for the properties considered by Kayser, as well as the proximity to the subject property. All are located between roughly a mile to three miles from the subject property. Of greater concern to us is that McFarland indicates all of Kayser's comparables have total living areas ranging from 1040 square-feet

¹ Kayser reports the subject property has 2600 square feet of living area. We assume she added the above-ground square feet and the basement finish together. We cannot determine whether she used the same calculations for the comparable properties.

to 1380 square-feet, compared to the subject's 2022 square-foot living area.² Without explanation, we do not believe homes that are, on average, half the living area of the subject are reasonably similar.

Although critical of the appraisal and the CMA, McFarland ultimately relies on the same properties to support the Board of Review's opinion that the assessed value is the correct market value. Although adjustments were made to the properties, the adjustments appear to be cost-based and not market actions. For example, a \$4560 adjustment was made to Comparable 1 on Attachment #1 to account for a 31 square-foot difference in deck/patio area. We do not believe the market would supply a \$4560 value to a 31 square-foot difference in deck/patio area. As another example, a \$3900 fireplace adjustment is made to comparables lacking a fireplace and we question whether this adjustment accurately reflects market behavior. Therefore, we hesitate to rely on the adjustments included in the Attachments and the resulting indicated values of the comparables.

McFarland also considered the median sales price per-square-foot from Attachment #1 and Attachment #2 to arrive at an opinion of value. McFarland's letter states that Attachment #1, which reflects the sales considered in Steffen's appraisal, has a median sales price-per-square foot of \$99.51 and results in an indicated value of approximately \$201,200. We note the correct median sales price per-square-foot is actually \$98.77, with an average of \$91.43. Based on a median of \$98.77, the subject's indicated value is \$199,713. Based on the average of \$91.43, the indicated value is \$184,871.

Lastly, McFarland provided a sale of a property located at 204 Belle Street (Attachment #3). It sold in July 2011 for \$192,000, or \$145.90 per-square-foot. McFarland indicates this property's condition is superior to the subject property, but also asserts the subject has superior amenities. We also note this sale has only 1316 square-feet of living area. McFarland made adjustments to the property, but like the previous analysis, the adjustments appear to be cost-based.

² There are differences in square-footage figures between the Assessor and Comparative Market Analysis. We rely on the Assessor's figures.

Based on the totality of the evidence, we find Steffen's appraisal to be the best evidence in the record of the subject property's fair market value as of January 1, 2012.

Conclusion of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the

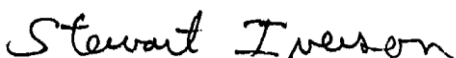
subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

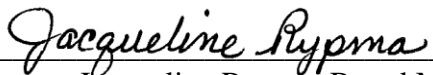
Mienders provided an appraisal by Andrew Steffen, and a CMA by Karen Kayser in support of his claim. We do not find Kayser's CMA helpful in determining the fair market value of the subject property. However, Steffen's appraisal included five comparable properties, each adjusted for differences that exist between them and the subject property, with a final opinion of value of \$155,000. We find Steffen's appraisal to be the best evidence in the record of the fair market value of the subject property and it supports Mienders' claim of over-assessment.


THE APPEAL BOARD ORDERS the assessment of Kevin Mienders' property located at 427 Belle Street, Waterloo, Iowa, is modified to a total value of \$155,000, allocated as \$26,260 in land value and \$128,740 in dwelling value as of January 1, 2012.

The Secretary of the Property Assessment Appeal Board shall mail a copy of this Order to the Black Hawk County Auditor and all tax records, assessment books and other records pertaining to the assessments reference herein on the subject parcel shall be corrected accordingly.

Dated this 30th day of July, 2013.


Stewart Iverson, Presiding Officer


Jacqueline Rypma, Board Member


Karen Oberman, Board Member

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AUDITOR

Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on July 30, 2013.

By: ☒ U.S. Mail ☐ FAX
☐ Hand Delivered ☐ Overnight Courier
☐ Certified Mail ☐ Other



Signature _____